

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-082)**

Subject

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XVIII of the Constitution of Missouri. (Received December 6, 2021)

Date

December 23, 2021

Description

This proposal would amend Article XVIII of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Health and Senior Services**, the **Department of Commerce and Insurance**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Malta Bend R-V School District**, **Mehlville School District**, **Wellsville-Middletown R-1 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact to their department.

Officials from the **Department of Economic Development** indicated they anticipate no impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated they do not see a fiscal impact to their department, as this language essentially mirrors requirements outlined in the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g and 34 C.F.R Part 99).

They would note however, that FERPA makes it clear that the obligation to provide student records upon request to parents applies only to education agencies that are federally funded. It appears that the initiative petition applies to all education providers (public, private, parochial, homeschool).

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no anticipated cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XVIII, but this could conflict with the Division of Labor Standards youth employment statutes under Chapter 294 and have broader implications.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for all of their department divisions.

Officials from the **Department of Social Services** indicated estimated increased costs will be \$1,607,621 for fiscal year 2023, \$1,773,287 for fiscal year 2024, and \$1,792,089 for fiscal year 2025.

The Department of Legal Services estimates that it will require an additional 4 litigation/permanency attorneys to implement this legislation. This stems from a likely increase in the time that would be spent in defending against possible claims of Constitutional violations due to infringement of parental rights.

The Children's Division anticipates this initiative petition will result in additional time and effort to conduct child abuse/neglect investigations/family assessments. Based on the 2020 CA/N Annual Report, there were 55,853 hotline reports, which would require an estimated additional effort of 30 minutes each, resulting in 27,927 hours. That would necessitate an additional 14 Social Service Specialist full-time employees (FTEs). In addition, this initiative petition is anticipated to result in additional time and effort specific to investigations of medical and educational neglect, which based on the 2020 CA/N Annual Report is estimated to involve 283 cases, requiring 6 additional hours per year for each case, resulting in the need for an additional Social Service Specialist FTE for a grand total of 15 FTE.

Officials from the **Governor's office** indicated this proposal relating to parental authority should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition will have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to parental authority should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be \$7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over \$5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates \$75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article XVIII will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they anticipate no costs or savings from this petition.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article XVIII.

Officials from the **City of Kansas City** indicated this petition would not have a fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated they anticipate no fiscal impact of the proposed initiative petition proposing to amend Article XVIII.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of St. Joseph, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, and St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate no savings and increased annual costs of at least \$1.6 million. Local governmental entities estimate no costs or savings.